

# EXHIBIT B

1  
IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA  
\* \* \* \* \*

JOHN LEWIS GERHOLT, \*  
SR., \*  
Plaintiff \* Civil Action No.  
vq. \* 2:13-cv-00007-  
\* KRG-KAP  
DONALD ORR, JR., \*  
Warden, \*  
Individually, \*  
Defendant \*

\* \* \* \* \*  
DEPOSITION OF  
CORY LEE DIVELBISS  
August 20, 2014

COPY

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2  
DEPOSITION  
OF

CORY LEE DIVELBISS, taken on behalf of  
the Defendant herein, pursuant to the  
Rules of Civil Procedure, taken before  
me, the undersigned, Michael G.  
Sargent, a Court Reporter and Notary  
Public in and for the Commonwealth of  
Pennsylvania, at SCI-Huntingdon, 1100  
Pike Street, Huntingdon, Pennsylvania,  
on Wednesday, August 20, 2014,  
beginning at 11:04 a.m.

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A P P E A R A N C E S

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COUNSEL FOR DEFENDANT

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I N D E X

WITNESS: CORY LEE DIVELBISS  
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OBJECTION PAGE

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ATTORNEYPAGE

NONE MADE

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PROCEEDINGS

7

-----  
CORY LEE DIVELBISS, HAVING FIRST BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:  
-----

EXAMINATIONBY ATTORNEY LETTRICH:

Q. Mr. Divelbiss, my name is Mike Lettrich. We met briefly before this deposition. And we are here today for a deposition in a lawsuit filed by John Lewis Gerholt, Sr., against Donald Orr, Jr. It's in the Western District of Pennsylvania in Federal Court at Docket Number 2:13-cv-0007.

Mr. Divelbiss, have you ever had your deposition taken before, this process?

A. No, sir.

Q. I explained to you briefly before we got started but I'll explain it more formally now. This process is called a deposition. And what that means is in civil cases in Federal Court, when a lawsuit's been filed,

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the attorneys in the case have the opportunity to ask potential witnesses questions as to what they saw or heard or remember, the details that are facts. Those questions are under oath and they will be transcribed into a document called a transcript which I showed you beforehand. There will be a couple of things probably important to know about depositions as we get going; okay? The first thing is that it's difficult for a court reporter, because he's taking down verbal responses, it's difficult for a court reporter to record nods of the heads or when a person says uh-huh or uh-uh. So if you could, try to keep your answers verbal, yes or no, because it will make it easier for the court reporter; okay?

A. Yes, sir.

Q. The second thing is it's also difficult for a court reporter to take down two people talking at the same time. Sometimes you may know where

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1 I'm going with a question and what to  
2 respond before I'm done talking.  
3 That's not a problem, except for it  
4 makes a problem for the court  
5 reporter. So if you could just wait  
6 until I get done speaking before you  
7 respond, it will make it easier for  
8 him; okay?

9 A. Yes, sir.

10 Q. Again, I'm going to ask you  
11 some questions. This isn't a memory  
12 test. If I ask you a question and the  
13 answer is that you don't know or you  
14 don't remember, and that's the fair  
15 answer, then that's what I'm looking  
16 for. I'm not expecting you to guess  
17 or speculate; okay?

18 A. All right.

19 Q. Similarly, none of these  
20 questions are trick questions. If I  
21 ask a question and you're not quite  
22 sure what I'm getting at, just tell me  
23 that and ask me to rephrase and I'll  
24 try to restate the question in a way  
25 that makes more sense; okay?

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1 A. Yes, sir.

2 Q. Similarly, I have a tendency to  
3 talk kind of fast sometimes. If I ask  
4 you a question and you don't hear it,  
5 just let me know and I'll say the  
6 question again.

7 A. Understood.

8 Q. So if you answer a question,  
9 I'm going to assume you both heard it  
10 and understood it; is that fair?

11 A. That's fair.

12 Q. Could you state your name for  
13 the record, please?

14 A. Cory Lee Divelbiss, Inmate  
15 KT-8353.

16 Q. How do you spell Cory?

17 A. C-O-R-Y.

18 Q. And Divelbiss is  
19 D-I-V-E-L-B-I-S-S?

20 A. Yes, sir.

21 Q. And we are at SCI-Huntingdon  
22 currently?

23 A. Yes, sir.

24 Q. You're serving a term of  
25 incarceration here?

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1 A. Yes, sir.

2 Q. And that's for arson; is that  
3 ---?

4 A. Yes, sir.

5 Q. Cory, at one time were you  
6 housed in the Bedford County Jail?

7 A. Yes, sir.

8 Q. What would the dates of that  
9 have been?

10 A. I was housed there from  
11 March 13th, the day of my arrest from  
12 about 3:30 to November 8th, the year  
13 of 2012 to about say 8:00 in the  
14 morning when they shipped me up to  
15 SCI-Camp Hill.

16 Q. When they had you in the  
17 Bedford County Jail, did you have a  
18 cellmate?

19 A. Yes, I did, Sir.

20 Q. Who was your cellmate?

21 A. John Lewis Gerholt, Sr.

22 Q. Who was the Warden of the ---?

23 A. At the time the Warden was  
24 Donald Orr.

25 Q. When you were in the Bedford

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1 County Jail did you witness any  
2 physical altercations between Mr. Orr  
3 and Mr. Gerholt?

4 A. Yes. I witnessed one on  
5 May 15th, 2012, sometime in the  
6 morning. It was after everything was  
7 opened up and everybody was moving  
8 around. I'd say about 9:00, 10:00 in  
9 the morning, around there. Donald  
10 Orr, the Warden at Bedford County Jail  
11 came onto the block unescorted by any  
12 lieutenant or guards and he came up to  
13 the cell which was C Block, Cell One.  
14 And he came in the cell and told me to  
15 leave the cell, this was between him  
16 and Mr. Gerholt.

17 So I left the cell not wanting  
18 to stray too far. So I sat on the  
19 benches directly by the windows of the  
20 slider and was watching in the cell.  
21 And the Warden came in, grabbed John  
22 on the shoulder, shook him and started  
23 screaming Gerholt --- he screamed  
24 Gerholt like three times. And when  
25 John rolled over, I didn't hear what

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1 he was saying but I witnessed him  
2 poking him in the chest with his index  
3 finger. And they had a ---.

4 Q. Let me stop you right there.  
5 Where was Mr. Gerholt at this time?

6 A. Mr. Gerholt was sleeping on the  
7 bottom bunk and I was sitting at the  
8 desk playing Solitaire.

9 Q. Please continue?

10 A. He was poking him in the chest  
11 while he was sleeping on the bottom  
12 bunk. And John lifted his thing up  
13 and the Warden started whispering  
14 something, couldn't make out what he  
15 said, and he said something. John sat  
16 up as the Warden was leaving and just  
17 looked at him and the Warden, when he  
18 was walking out of the block, out the  
19 slider was looking at me as I was  
20 looking at him just shocked at what I  
21 seen go on in the cell, stuff like  
22 that. And I went in and talked to  
23 John. John didn't thoroughly tell me  
24 what he said and I figured that was  
25 none of my business.

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1 But later on that night, John  
2 wrote a --- wrote up a letter on what  
3 went on, the incident and stuff like  
4 that. I don't know if he sent it to  
5 his attorney or not. But he had me  
6 read it. I can't specifically  
7 remember what the letter said but it  
8 said if I would be a witness to what  
9 went on there. He signed it and then  
10 I signed it. And he got me a copy but  
11 the copy got lost somewhere in my  
12 transfers through prison.

13 Q. Sure. So you were in the cell  
14 playing Solitaire and John was on the  
15 bunk?

16 A. Yes, sir. He was asleep facing  
17 the wall.

18 Q. Had you had breakfast by that  
19 point in the morning?

20 A. Breakfast came at like around  
21 6:00, 6:30 in the morning there, stuff  
22 like that. And he usually had me wake  
23 him up around the time meds came. And  
24 this was, I think, before meds, way  
25 before meds even happened. So that

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1 would have been around, like I said,  
2 8:00, 9:00 in the morning.

3 Q. Were you on any meds at that  
4 time?

5 A. No, sir.

6 Q. What about Mr. Gerholt; do you  
7 recall?

8 A. Yeah. Mr. Gerholt took meds  
9 but, I think he took something for  
10 depression and anxiety because of what  
11 went on in his case and stuff like  
12 that. He took them just to keep his  
13 stress levels down and stuff.

14 Q. So if I understand this  
15 correctly, the Warden came into the  
16 cell and told you to leave the cell?

17 A. Yes, sir.

18 Q. And said that that was between  
19 himself and Mr. Gerholt?

20 A. Yes, sir.

21 Q. So you walked out of the cell  
22 and you were on a bench?

23 A. Yes, sir.

24 Q. Where was this bench located  
25 relative to yourself?

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1 A. All right. There's a bench  
2 right out front of the cell. Here's  
3 the cell door. Here's the one table.  
4 There's a table right there and  
5 there's a row of windows on Charlie  
6 Block. And then it would curve into  
7 the slider, the slider would be right  
8 about there. I sat at the far back  
9 table by the windows just amazed at  
10 what I seen. That's where I sat at,  
11 sir.

12 Q. Maybe it might be easier to  
13 understand if I had you draw a  
14 picture.

15 A. All right, sir.

16 Q. Why don't you draw --- I'm  
17 handing you a piece of paper and I'll  
18 ask you to draw a picture of where the  
19 cell is and where this bench is.  
20 WITNESS COMPLIES

21 A. That's a shower right there.  
22 The cell would be right here beside  
23 the shower and the cleaning closet.  
24 This was the slider door and there's a  
25 back slider here.

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1 BY ATTORNEY LETTRICH:

2 Q. Could you write the word cell  
3 next to where the cell is?

4 WITNESS COMPLIES

5 BY ATTORNEY LETTRICH:

6 Q. And write the word slider next  
7 to where you're describing the slider.  
8 WITNESS COMPLIES

9 BY ATTORNEY LETTRICH:

10 Q. And when you say slider, you're  
11 referring to a sliding cell door?

12 A. Yeah. It was an electronic  
13 door. It slid open. I don't know the  
14 technical term for it but we refer to  
15 them as sliders.

16 Q. Okay.

17 A. I was sitting right here at the  
18 table back here against the windows.

19 Q. So the rectangular things  
20 you're drawing are in the ---?

21 A. Those are tables.

22 Q. Those are tables.

23 A. I'll label them as tables for  
24 you, sir.

25 Q. Thank you. Were these tables

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1 sort of a dayroom type area?

2 A. Yeah, it was the dayroom area.  
3 They were picnic tables, like steel  
4 picnic tables bolted to the ground.  
5 And I sat down over there looking into  
6 the cell. My drawing might be a  
7 little bit off because it's just a  
8 small little sketch. But it had a  
9 straight view into the cell and you  
10 could see everything that was going  
11 on. The way Mr. Gerholt was laying,  
12 the beds face this way and his head  
13 was down here towards the window on  
14 the wall.

15 Q. I'll actually give you another  
16 piece of paper, you're going to draw  
17 the cell which could be helpful.  
18 Let's mark this first drawing as  
19 Exhibit A. He'll put an exhibit  
20 sticker on it for you.

(Deposition Exhibit A  
marked for  
identification).

24 WITNESS DRAWS CELL

25 A. That's the setup of the cell.

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1 Mr. Gerholt had his --- always slept  
2 with his head down here at the window  
3 to keep --- because when you're down  
4 here, if you slept with your head down  
5 here, the desk blocked the view out  
6 into the cell. He always slept right  
7 there like that facing the wall.  
8 Because I'd sleep on the top bunk  
9 facing the other way to watch what was  
10 coming in the cell, stuff like that.

11 At the time I was sitting at  
12 the desk playing Solitaire and Mr. Orr  
13 came in through the slider, the slider  
14 would have been right there. He came  
15 onto the block, came up to the cell  
16 door and told me to exit the cell,  
17 this is between him and Gerholt.

18 So I left the cell and went  
19 towards the picnic table sitting by  
20 the far windows and sat down and  
21 observed what went on in the cell with  
22 Mr. Orr grabbing Mr. Gerholt on the  
23 shoulder and shaking him and screaming  
24 his name, poking him in the chest  
25 while talking to him in a low whisper.

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1 I didn't understand what they  
2 were saying or nothing. Mr. Gerholt  
3 didn't say nothing back to him. When  
4 Warden Orr turned around and walked  
5 out the cell, Mr. Gerholt sat up in  
6 just like disbelief, somebody, one of  
7 the staff members would do that.

8 BY ATTORNEY LETTRICH:

9 Q. This photo --- rather, this  
10 drawing you made is very helpful so  
11 thank you for that.

12 A. You're welcome.

13 Q. Let's mark his second drawing  
14 as Exhibit B, please.

(Deposition Exhibit B  
marked for  
identification).

18 BY ATTORNEY LETTRICH:

19 Q. So when you were sitting at the  
20 picnic table, you were able to see in  
21 through the bars?

22 A. We had the door --- the door  
23 was the whole way open at the time  
24 because our county wasn't 23 and 1 or  
25 nothing like that. It was open all

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1 day until I think about 10:00. And I  
 2 was sitting there. When he told me to  
 3 leave the cell, I went and sat at the  
 4 bench watching the cell because that's  
 5 considered my home. That's where I  
 6 live. I watched him just shake him  
 7 and when he rolled over like getting  
 8 ready to take his towel off his eyes,  
 9 just poking him in the chest, just  
 10 whispering to him something. I don't  
 11 know what it was, and Mr. Gerholt  
 12 never said anything about what he said  
 13 or nothing. But I went and, after Mr.  
 14 Warden left, and sat down beside  
 15 Gerholt and asked him what went on,  
 16 what did he say, you know, in case he  
 17 needed me to recollect on what he said  
 18 or something like that. He was like  
 19 he didn't even really know because he  
 20 was half awake at the time when he was  
 21 getting poked and screamed at. So I  
 22 think he knew what was said, Mr.  
 23 Gerholt was, but he just didn't want  
 24 to bring me into nothing that would  
 25 maybe cause me any problems further

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1 down the road.  
 2 Q. I see. Did you ever speak  
 3 about this incident with Warden Orr?  
 4 A. No.  
 5 Q. Did you ever speak about this  
 6 incident again with Mr. Gerholt?  
 7 A. No. The last time I seen Mr.  
 8 Gerholt I think it was September the  
 9 11th, 2012 when he went up to Camp  
 10 Hill.  
 11 Q. Now, speaking of communications  
 12 with Mr. Gerholt, have you two kept in  
 13 touch by letter?  
 14 A. No, sir.  
 15 Q. Have you written him any  
 16 letters since September 11th of 2012?  
 17 A. No, sir.  
 18 Q. Has he written you any letters  
 19 from September?  
 20 A. No, sir.  
 21 Q. Has he called you on the  
 22 telephone?  
 23 A. No, sir.  
 24 Q. Have you called him on the  
 25 telephone?

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23

1 A. No, sir.  
 2 Q. Have you communicated by email?  
 3 A. No.  
 4 Q. Have you been in contact with  
 5 Mr. Gerholt in any way since September  
 6 11th of 2012?  
 7 A. No, sir.  
 8 Q. If I understood you correctly  
 9 earlier, you don't have any sort of  
 10 notes or records or documents about  
 11 this incident? You said there was the  
 12 one that Mr. Gerholt wrote but it got  
 13 lost in transit between various  
 14 facilities for you, is that correct?  
 15 A. Yes, sir. It was written on a  
 16 legal sheet. His copy was written on  
 17 a legal sheet. He might still have  
 18 his copy. And mine, it was a  
 19 photocopy, sent it down to the --- I  
 20 don't remember what it was but you had  
 21 to send it out and they had to take  
 22 it. And they always read your legal  
 23 work whether they were photocopying or  
 24 not in the county jail. So he brought  
 25 me back and gave me a copy of it on

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1 white paper. It was made out to a  
 2 legal form status. And I put it in my  
 3 folder that I took upstate with me  
 4 with all my stuff in it that I was  
 5 allowed to take with me. And  
 6 somewhere along the lines of me  
 7 getting transferred from Camp Hill to  
 8 here --- or from the county to Camp  
 9 Hill it got lost in the process.  
 10 Q. I just want to confirm. If  
 11 there was any writing, I'd like to see  
 12 it just to be evidence in the case.  
 13 So you said that Mr. Gerholt was  
 14 laying on his side?  
 15 A. Yes, sir.  
 16 Q. With a towel over his head?  
 17 A. Yes, sir.  
 18 Q. Which direction was he facing  
 19 on the bed?  
 20 A. He was facing the window, like  
 21 looking out towards the window at the  
 22 back of the jail. When he was  
 23 sleeping he always slept with  
 24 something wrapped around his eyes  
 25 because of the sunlight from the

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25

1 window. So he's sleeping with his  
2 back towards the bars.

3 Q. The Warden asked you to leave  
4 the cell?

5 A. Yes, sir.

6 Q. He said it was between him and  
7 Mr. Gerholt?

8 A. Yes, sir.

9 Q. You went out and then you heard  
10 him say Gerholt, Gerholt?

11 A. Yes.

12 Q. Was it your impression that he  
13 was trying to wake him up?

14 A. My impression was yeah, he was  
15 trying to wake him up, but it seemed  
16 like kind of an angry, violent tone.  
17 Because I went in and woke Mr. Gerholt  
18 up a couple times for medication and  
19 all you need to do is go Gerholt, and  
20 he's usually up in one sit-up to get  
21 up for meds. But this here was like a  
22 violent, multiple yell at the same  
23 time, like rapidly yelling Gerholt and  
24 shaking his shoulder and poking him in  
25 the chest.

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1 When he went to roll over the  
2 Warden was standing like, I'd say  
3 about six, seven inches from the bunk  
4 poking him in the chest, leaning like  
5 towards his face and ear whispering  
6 something real vulgar while poking  
7 him. I don't know what it was but,  
8 you know, it must have been something  
9 not nice or something because it was  
10 all whispering. He might have not  
11 wanted no one to hear what he was  
12 saying.

13 Q. So when he said Gerholt,  
14 Gerholt, was that before he started  
15 poking or was he poking and saying  
16 this at the same time?

17 A. He was shaking him on the  
18 shoulder still yelling Gerholt. And  
19 then when Mr. Gerholt rolled over, he  
20 was poking him in the chest saying  
21 Gerholt. And then it went to some  
22 whisper, like sort of a whisper. When  
23 Gerholt went to sit up, stuff like  
24 that, I guess he could see out from  
25 underneath this thing there and it

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1 seemed like some dress pants or  
2 something. It wasn't like regular  
3 guard or something. And he was poking  
4 him in the chest whispering something.

5 Q. Have you ever seen Warden  
6 Gerholt (sic) interact with any other  
7 inmates that way?

8 A. Mr. Orr?

9 Q. Excuse me, yes, Mr. Orr.

10 A. No, I've never seen him  
11 interact with any other inmates that  
12 way. But a lot of people just tried  
13 to stay out of his way when he came on  
14 the block. Like a lot of people would  
15 just leave the block and go to their  
16 cells because, you know, him being a  
17 figure of authority, he could put you  
18 under the jail if he really wanted to.  
19 And everybody, I guess, was scared of  
20 him.

21 Q. When you say put you under the  
22 jail, you mean he would do something  
23 to you that you wouldn't like?

24 A. Yeah. More or less make your  
25 stay there real uncomfortable.

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1 Q. I see. Did Warden Orr ever do  
2 anything to make your stay there  
3 uncomfortable?

4 A. Just that incident right there  
5 because that made me more really aware  
6 of my surroundings and stuff like  
7 that. And I sort of felt unsafe  
8 around like high officials and stuff  
9 like that, that I wouldn't even go  
10 talk to them out in the hall without  
11 like another inmate watching or  
12 something like that. I wouldn't go.  
13 He just made me feel uncomfortable,  
14 like you know, what if he comes in and  
15 does that to me, you know.

16 Q. Sure. I understand. How long  
17 do you think this interaction between  
18 Warden Orr and Mr. Gerholt lasted?

19 A. I'd say it lasted about a good  
20 five, ten minutes at the most.  
21 Because he was whispering for a good  
22 minute. And I didn't really look at  
23 the clock because the clock was behind  
24 me and stuff like that. I just kept  
25 an eye on what was going on and stuff,

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1 I'd say about five, ten, man.  
 2 Q. So he woke him up by yelling  
 3 Gerholt and poking him in the  
 4 shoulder?  
 5 A. Grabbed him on the shoulder.  
 6 It was like a physical grab, I'd say  
 7 sort of like a handshake grab on the  
 8 shoulder, shook him a little bit. And  
 9 as he started to turn while he was  
 10 screaming Gerholt while he was shaking  
 11 him and saying --- screaming Gerholt  
 12 while poking him in the chest with an  
 13 index finger, as Gerholt went to go  
 14 sit up and went back down like all in  
 15 shock.  
 16 And he kept poking him  
 17 whispering something like I'm  
 18 authority figure, you know what I  
 19 mean, you ain't got nothing to do  
 20 here, stuff like that. That's how it  
 21 came off is he's one of the ones you  
 22 can't touch me and stuff like that  
 23 while poking him like authority?  
 24 Q. I think I understand now. So  
 25 he was sleeping on his side facing the

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1 window with a towel over his head?  
 2 A. Yes, sir.  
 3 Q. Warden Orr came in, yelled  
 4 Gerholt, Gerholt, poked him and  
 5 grabbed his shoulder and flipped him  
 6 back over so that that way he was  
 7 laying on his back and his chest was  
 8 facing him?  
 9 A. No.  
 10 Q. No?  
 11 A. Mr. Orr came in, told me to  
 12 leave the cell. I went over and sat  
 13 on the bench. Mr. Orr came in, first  
 14 he grabbed him by the shoulder, shook  
 15 him yelling Gerholt. And as John went  
 16 to roll over towards himself, I guess  
 17 he must have --- his line for his eyes  
 18 must have caught a glimpse of like  
 19 some pants because Donald Orr, the  
 20 Warden, always wore specific shoes  
 21 with like some little buckle on them  
 22 or something and you knew that man  
 23 when you seen him. He must have seen  
 24 them and laid back down. While he was  
 25 laying down, he was poking him in the

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1 chest, whispering in his ear something  
 2 after yelling Gerholt multiple times  
 3 and poking him, too. I don't know  
 4 what was going on there, what was  
 5 said. That's particularly not between  
 6 me, that's Gerholt and him.  
 7 Q. I suppose here's the part where  
 8 I'm confused, Cory, is whenever the  
 9 Warden was allegedly poking him in the  
 10 chest, how was Mr. Gerholt laying at  
 11 that time?  
 12 A. Mr. Gerholt, he was on his  
 13 back.  
 14 Q. He was on his back at this  
 15 point?  
 16 A. Yeah. He's laying flat on his  
 17 back like he's just shocked. But he  
 18 didn't have his eyes uncovered or  
 19 nothing like that. He figured --- I  
 20 mean, that might be the best solution,  
 21 pretend you're sleeping or something,  
 22 while poking him in the chest  
 23 whispering something towards his ear,  
 24 stuff like that, just kept poking him  
 25 the whole time. And then the Warden

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1 left the block and just looked at me.  
 2 And John was sitting up at that time  
 3 looking at me. And I was just  
 4 watching the Warden walk out, like in  
 5 shock. I've never seen a staff member  
 6 do this to somebody.  
 7 Q. I'm sorry, I'm still a little  
 8 confused here as to how he got from  
 9 laying on his side facing the window  
 10 to being on his back.  
 11 A. When Warden Orr grabbed his  
 12 shoulder screaming Gerholt, John was  
 13 rolling over at the same time as the  
 14 Warden let go of his shoulder. He  
 15 went to roll over and the Warden was  
 16 still saying Gerholt, poking him in  
 17 the chest. And he went --- John went  
 18 to go sit up a little bit and then he  
 19 went back down. I guess he realized  
 20 who it was or something, poking him in  
 21 the chest screaming Gerholt and  
 22 whispering something in his ear after  
 23 Mr. Gerholt laid back down. Mr.  
 24 Gerholt rolled over himself just as  
 25 the Warden was letting off his

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1 shoulder and went to poking him in the  
2 chest saying Gerholt.

3 Q. I think that was helpful. And  
4 if I understand what you're showing me  
5 there, you were gesticulating a little  
6 bit. Mr. Gerholt was on his side  
7 facing the window so he would have  
8 been on his left side?

9 A. Yes, sir.

10 Q. The Warden came in and grabbed  
11 him by the shoulder. At that time Mr.  
12 Gerholt started to sit up a little  
13 bit.

14 A. Started to roll and sit.

15 Q. Roll and sit. So he was moving  
16 --- he was turning from being on his  
17 left-hand side turning so he would be  
18 facing ---?

19 A. Out towards the cell, like on  
20 his back like he was getting ready to  
21 roll up out of bed. And that's when  
22 the Warden started poking him in the  
23 chest and saying something after  
24 screaming Gerholt while poking him in  
25 the chest. He went down still

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1 continuously poking him whispering  
2 something in his ear.

3 Q. Did Mr. Gerholt ever tell you  
4 what it was the Warden said to him?

5 A. No, he didn't, sir. He never  
6 said anything about it. I've asked  
7 him a couple times what it was and so  
8 if I ever did come to the time that if  
9 something did ever erupt from this,  
10 you know, I have more valuable  
11 information to give. And he never  
12 said nothing about it. He wrote that  
13 letter up like I said. It was dated  
14 for May 15th, 2012. And I think he  
15 might even have a copy but I'm not  
16 sure. I'm not sure if he's --- where  
17 his copy ended up, even if he still  
18 has it or --- he might have sent it to  
19 his lawyer with the rest of his legal  
20 work or something.

21 Q. I'll ask him for it. Hopefully  
22 he still has a copy of the thing.

23 When a person is an inmate,  
24 there's a process called a grievance  
25 process; are you familiar with that?

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1 A. Yes, sir.

2 Q. You have grievances here at SCI  
3 Huntingdon, I take it?

4 A. Yes, sir.

5 Q. And there were grievances at  
6 the Bedford County Jail, too?

7 A. Yes, sir.

8 Q. My understanding from Mr.  
9 Gerholt is that he didn't file a  
10 grievance on this?

11 A. No, sir. He didn't file no  
12 paperwork because I think the way he  
13 was thinking on it, if you filed  
14 paperwork, that it would end up at the  
15 wrong lieutenant's hands that would  
16 take it to the Warden. And it would  
17 just, you know, vanish.

18 Q. So when a person would file a  
19 grievance at the Bedford County Jail  
20 --- explain to me how that process  
21 would work.

22 A. Well, if you need to file a  
23 grievance at the Bedford County Jail,  
24 you usually ask the guard when they  
25 come on block. And when they come on

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1 you can ask them for request slips,  
2 medical slips, grievance forms and  
3 stuff like that and they'll go back to  
4 the ??? And when they come in on  
5 their next round they'll deliver it to  
6 you by hand with your name and stuff  
7 like that filled out, your county  
8 inmate number when you came in.

9 And you fill it out and you'll  
10 put it in a box and then the third  
11 shift lieutenant will come by and pick  
12 it up. And whatever happens from  
13 there with it, either it goes through  
14 the processes or it just vanishes.

15 Q. When you say it just vanishes,  
16 what do you mean?

17 A. Either it just gets crumbled  
18 up, thrown away or shredded and never  
19 gets responded back to. Or you just  
20 get does not affect you personally,  
21 put back on cell.

22 Q. Did you file any grievances  
23 yourself when you were in the Bedford  
24 County Jail?

25 A. No, sir.

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1 Q. So my understanding is that Mr.  
2 Gerholt didn't file a grievance  
3 because he felt that it wouldn't have  
4 been worth his time because it  
5 ultimately could have gone to Warden  
6 Orr who was involved in this?

7 A. Yes, sir.

8 Q. Did you speak with any of the  
9 correctional officers or lieutenants  
10 or anybody else about this incident?

11 A. No, sir. I really tried to  
12 stay out of the guards' way, stuff  
13 like that, because either --- anything  
14 you'd tell them, like say if I had  
15 codefendants on an another block and I  
16 said something about my codefendant,  
17 that would so happen travel from that  
18 guard to that block and stuff like  
19 that and it would cause a big ruckus.  
20 And then the guards say that incident  
21 happened. If John or me went to the  
22 staff, we said something to them, like  
23 even one of the white shirts, it would  
24 go on back to the Warden and probably  
25 create another escalated event.

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1 Q. Do you know if Mr. Gerholt said  
2 anything to any of the correctional  
3 officers or lieutenants about this?

4 A. No. I have no recollection on  
5 that, sir. But I know the third shift  
6 lieutenants, if you told them  
7 something, they just looked at you and  
8 laughed. And the third shift guards,  
9 they were like the regular gray shirt  
10 guards. They were decent people.  
11 They actually took the time to help  
12 you out on something. But there's  
13 just a line between inmates and guards  
14 that you don't want to cross, you know  
15 what I mean? You don't want to be  
16 seen really talking to them, even if  
17 it's something as serious as that  
18 because then you get labels and stuff  
19 like that.

20 Q. Do you know if anybody else  
21 witnessed this event besides yourself?

22 A. There was somebody sitting in  
23 the back of the block on the phone.  
24 I'm not sure who it was. I really  
25 can't remember all the people that

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1 were on that block at that time, sir.  
2 But there was somebody sitting on the  
3 back of the block. There was somebody  
4 in the shower upstairs. And me  
5 sitting on the block, that makes about  
6 three of us that were out of the  
7 cells. I think everybody else went in  
8 and went back to sleep.

9 Q. If a person was, you say  
10 upstairs in the showers?

11 A. Yes, sir.

12 Q. Would they be able to see into  
13 John's bunk?

14 A. No, sir. Those showers would  
15 face the outside wall, like the  
16 windows where my back was turned  
17 against it sitting at the rec, sitting  
18 at the table.

19 Q. If a person was on the  
20 telephones they wouldn't be able to  
21 see ---?

22 A. No. That's way in the back of  
23 the block and you're just looking  
24 forward at the block. You can see the  
25 tables and the whole way out through

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1 the slider you can see central right  
2 there, the bubble. And then you can  
3 see the rec yard out there. That's  
4 basically all you can see.

5 Q. So as far as you know, the only  
6 three people that witnessed this event  
7 were yourself, John Gerholt and Donald  
8 Orr; is that correct?

9 A. Yes, sir.

10 Q. We've talked about quite a few  
11 things about this incident here. Is  
12 there anything else that you can  
13 remember from that day?

14 A. No, sir.

15 Q. Do you know if John required  
16 medical attention after this incident?

17 A. No. He didn't go down to  
18 medical or anything like that. He  
19 just kind of stayed to his cell until  
20 it came time towards trial time and  
21 stuff like that. He just stayed away  
22 from a lot of people. I'd sit and  
23 converse with him because, you know,  
24 he got along with me. He'd call me  
25 like one of his kids, more or less.

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1 And he'd look out after me and stuff  
2 like that on the block. He's a fairly  
3 good man in reality, you know, besides  
4 what happened on the outside, you know  
5 what I mean? Everybody has their  
6 downfalls in the world sometimes. But  
7 he's never ??? But I've never seen  
8 him go down to medical for this  
9 incident or anything like that, sir.

10 Q. I see. Do you know if he had  
11 --- and again, this is if you know,  
12 this is not a memory test or you  
13 wouldn't necessarily have occasion to  
14 know this, but do you know if he had  
15 any sort of medical conditions before  
16 this incident?

17 A. Before he got arrested or  
18 before the incident with the Warden?

19 Q. Before the incident with the  
20 Warden, if you know.

21 A. No, I don't think he had any.  
22 But when he got sentenced and stuff  
23 like they did put him on some pretty  
24 high dosage medication. That's way  
25 after this incident though, put him on

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1 some high dosage medication. He just  
2 sat there like a zombie, I'd say, like  
3 he was dumbfounded.

4 Q. I see. So I get the impression  
5 from what you've told me here so far  
6 today you feel that Warden Orr was  
7 wrong by this interaction?

8 A. Yes, sir.

9 Q. Why is that exactly?

10 A. In technicality, they're not  
11 really supposed to lay hands on you  
12 unless they're --- unless it's either  
13 causing a threat to another inmate or  
14 another staff member. They're not  
15 supposed to come in your cell like he  
16 was a head up official, he was not  
17 supposed to come in your cell without  
18 being escorted by either a lieutenant  
19 or COs at the time. And in  
20 technicality that's breaking all the  
21 rules. He laid a hand on an inmate.  
22 I don't know if you could call that  
23 assault and verbal assault or not, I  
24 don't know what you'd call that. He  
25 was unescorted by CO, stuff like that.

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1 It's how I feel he was in the wrong.  
2 He shouldn't have laid hands on Mr.  
3 Gerholt like that.

4 Q. And when you say lay hands, you  
5 mean on his shoulder ---

6 A. Grabbing on his shoulder and  
7 ---

8 Q. --- poking him in the chest?

9 A. --- poking him in the chest.  
10 That's still physical interaction, you  
11 know. They're not supposed to touch  
12 us.

13 Q. Right. Have you ever seen  
14 anything like that happen here at SCI  
15 Huntingdon?

16 A. No, sir.

17 Q. Have you ever seen anybody do  
18 anything like that at the Bedford  
19 County Jail?

20 A. Just with the incident with  
21 Warden Orr and John Gerholt.

22 Q. Have you ever seen anything  
23 like that transpire at any other  
24 correctional institution if you've  
25 never been anywhere else?

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1 A. No, sir.

2 Q. Cory, I know that you're  
3 currently serving a sentence for  
4 arson. I'd just like to ask you  
5 briefly about any other convictions  
6 you might have had between the ages of  
7 18 and I understand you're 21 now?

8 A. Yes, sir, I'm 21.

9 Q. Is arson your only conviction  
10 since ---?

11 A. My adult charge?

12 Q. Yes.

13 A. It's my only adult charge that  
14 I have, sir. And that's two and a  
15 half to five and I'm currently maxing  
16 out a five-year sentence on it.

17 Q. Congratulations. When will you  
18 be released?

19 A. March 13th, 2017.

20 Q. Okay. I thought you were  
21 implying that you would be getting out  
22 soon which I was going to say ---.

23 A. Maximum. No, sir.

24 Q. Sorry to hear that.

25 A. That's all done by my choice,

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1 sir. I don't want to sit on parole or  
2 probation because my mom and dad are  
3 up in their 60s now. They're almost  
4 at the age of retirement technically  
5 and I don't want, you know, a parole  
6 officer coming there bugging them  
7 any --- midday or midnight, you know  
8 what I mean? I want my family left  
9 alone by any parole officers.

10 Q. Makes sense. Cory, we've  
11 talked about a lot of things here  
12 today. Is there anything else you can  
13 think of that you remember from this  
14 day or from this incident?

15 A. No, sir. That's just about it.

16 Q. Is there anything you remember  
17 would have happened after this  
18 incident that you think is, you know,  
19 relevant to this incident?

20 A. To like Warden Orr and Gerholt  
21 ---

22 Q. Yes.

23 A. --- other situations involving  
24 the Warden?

25 Q. Yes. Either other situations

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1 involving him, Gerholt and Warden, or  
2 anything that would follow up to this  
3 incident we've just discussed?

4 A. Well, I'm not too certain on  
5 how true this information is or how  
6 certain it is or how reliable it is.  
7 But I was told that he was in the old  
8 library down by --- I'm trying to  
9 think of the block, the Gulf block was  
10 the whole --- Foxtrot was the whole,  
11 Gulf was out center.

12 He was on the female unit ---  
13 not the female unit but he was at the  
14 library which they had black plastic  
15 bags on the window that could observe  
16 the female block. And I heard he was  
17 doing some not so decent things in the  
18 library while watching female inmates.

19 Q. Are you talking about Orr or  
20 Gerholt?

21 A. Orr, sir. But I don't know how  
22 true that information is. That's just  
23 what you overhear guards talking about  
24 in the county jail come the time when  
25 he got fired from there. And I've

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1 heard another situation that he always  
2 carried a loaded gun, like a revolver  
3 on his one ankle in an ankle holster.

4 And I know you're not allowed a  
5 weapon in a corrections facility at  
6 all because even the State Police  
7 check them into the little lock box  
8 before they even come in the jail to  
9 take you to court or something. But I  
10 don't know how reliable them two  
11 things are. I can't remember the  
12 guard that told me about them or  
13 anything like that. But that's just  
14 what you heard through the grapevine.

15 Q. Rumors. Sure. I appreciate  
16 that. Any kind of information you  
17 have is helpful. And again, you  
18 haven't had any contact with Mr.  
19 Gerholt ---

20 A. No, sir.

21 Q. --- in any way, shape or form?

22 A. No, sir.

23 Q. You haven't had any contact  
24 with Warden Orr in any way, shape or  
25 form?

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1 A. No, sir.

2 Q. I believe that may be all the  
3 questions I have for you today.

4 A. All right, sir.

5 Q. Before we do, sometimes when  
6 you start telling a story, when you  
7 discuss certain details it can jog  
8 your memory about other things. Is  
9 there any sort of information about  
10 any of your other earlier questions  
11 that would either change your answer  
12 or amend your answer or thought of  
13 something else?

14 A. No, sir. I feel my answers  
15 that I answered to your questions are  
16 set in stone.

17 Q. Very good.

18 ATTORNEY LETTRICH:

19 Thank you very much.

20 A. Yes, sir.

21 ATTORNEY LETTRICH:

22 Now, as we discussed  
23 before the deposition, you're  
24 going to --- the court reporter  
25 is going to type up the

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questions I asked you and your answers into a document called a transcript. You've got two choices, they're up to you.

You can either have the court reporter send you a draft copy of the transcript so you can read it and if there are any words that he wrote down one thing and you meant something else, then you can make changes to it. That's option number one.

Option number two is you can rely upon the court reporter's expertise in taking this testimony down in what we call waive signature. You've got your choice of either one.

A. Could you explain to me what waive signature is?

ATTORNEY LETTRICH:

What would happen is if you waive signature as opposed to him sending the draft copy

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where you would sit down and read through it and make any --- if you feel a correction is necessary make a correction. That's option number one.

Option number two would be you would just say don't worry about that process, I don't need to read it, I'll rely upon your expertise and he'll just type it up. That's what's meant by waive signature.

A. Well, I'd like a copy for myself just stating that I did talk to you individuals on this day ---

ATTORNEY LETTRICH:

Yes.

A. --- and stuff like that, this is what I said in case, you know, something comes back, like if you guys say lose a copy of it and you know I have a copy I can send you that copy so you guys got it. And then I still have my copy.

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ATTORNEY LETTRICH:

My suggestion in that case would be that you read it so that way you have an opportunity to actually physically see and you can, you know, do what you need to do; okay?

A. Yes, sir.

ATTORNEY LETTRICH:

Thank you.

\* \* \* \* \*

DEPOSITION CONCLUDED AT 11:43 A.M.

\* \* \* \* \*

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COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF CAMBRIA )

# CERTIFICATE

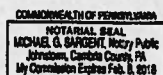
I, Michael Sargent, a Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify:

That the witness whose testimony appears in the foregoing deposition, was duly sworn by me on said date and that the transcribed deposition of said witness is a true record of the testimony given by said witness;

That the proceeding is herein recorded fully and accurately;

That I am neither attorney nor counsel for, nor related to any of the parties to the action in which these depositions were taken, and further that I am not a relative of any attorney or counsel employed by the parties hereto, or financially interested in this action.

*Michael S. Sargent*



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